

**UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA**

**LANDMARK LEGAL FOUNDATION**

**Plaintiff,**

**vs.**

**U.S. ENVIRONMENTAL PROTECTION  
AGENCY**

**Defendant.**

**Civ. Act. No. 12-1726 (RCL)**

**DEFENDANT’S THIRD MOTION FOR AN EXTENSION OF TIME TO FILE MOTION FOR  
SUMMARY JUDGMENT AND TO AMEND SCHEDULING ORDER ACCORDINGLY**

Defendant respectfully requests an extension of time until May 15, 2013, to file their Motion for Summary Judgment now due on April 30, 2013. Defendant has conferred with counsel for Plaintiff as required by Local Civil Rule 7(m) and they oppose this motion. Defendant needs more time for the reasons set forth below.

This action was filed under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and involves Plaintiff’s request for the following: (1) records identifying the names of third parties outside of the EPA with which the EPA, EPA employees, EPA contractors and/or EPA consultants have had communications of any kind relating to proposed rules or regulations that have not been finalized between January 1, 2012 and August 17, 2012; and (2) records for the same time period indicating that the issuance of regulations should be slowed or delayed until after November 2012 or the presidential elections of 2012. Upon mutual consent, the scope of

the request has been limited to the responsive records of senior officials in EPA headquarters. *See* Complaint, Exhibit 1, Landmark FOIA Request.

As is customary with these cases, the Defendant desires to file a Motion for Summary Judgment. *Fischer v. U.S. Dep't of Justice*, 596 F. Supp.2d 34, 42 (D.D.C. 2009) (summary judgment is appropriate in a FOIA case where the pleadings, together with the declarations, demonstrate that there is no genuine issue of material fact in dispute and that the moving party is entitled to judgment as a matter of law.). On April 3, 2013, this Court denied Defendant's motion for an extension of time until May 15, 2013 and ordered the Defendant's Motion for Summary Judgment be filed on April 30, 2013. Defendant has worked diligently ever since to abide by the Court's order, including working on weekends, and has in fact prepared a draft Motion, a 326 page *Vaughn* index and a witness declaration. However, in the process of finalizing the pleadings, EPA determined that another search is required and that there are a number of additional documents that may potentially be responsive to the Plaintiff's request, which have not yet been reviewed by the agency.

In order to ensure that EPA has responded completely and fully to the Plaintiff's request, it is requesting an additional two weeks to conduct the search, review the additional documents for responsiveness and privilege, amend its *Vaughn* index and file its comprehensive motion. Additionally, in accordance with the purposes of the FOIA, EPA will provide Landmark with any releasable responsive documents, if any, within that time period.

For the reasons cited above, Defendant requests an extension to file its motion with the Court on May 15, 2013. A proposed Order is attached hereto and incorporated herein.

Respectfully submitted,

RONALD C. MACHEN JR.

DC BAR #447-889  
United States Attorney  
For the District of Columbia

DANIEL F. VAN HORN,  
D.C. BAR # 924092  
Chief, Civil Division

/s/

By:

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**ORDER**

Upon full consideration of the Motion, it is ORDERED that:

The Motion for an Extension of time to file Defendant's Motion for Summary Judgment is hereby GRANTED. The Parties shall abide by the following schedule:

Defendant's Motion for Summary Judgment . . . . . June 7, 2013

SO ORDERED.

Date: \_\_\_\_\_

\_\_\_\_\_  
The Honorable Royce C. Lamberth  
United States District Judge